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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/875,519

06/06/2001

Timothy C. Farries

4-30443B/D1

6920

1095

7590

03/09/2004

THOMAS HOXIE

NOVARTIS, CORPORATE INTELLECTUAL PROPERTY

ONE HEALTH PLAZA 430/2

EAST HANOVER, NJ 07936-1080

EXAMINER

VANDERVEGT, FRANCOIS P

ART UNIT

PAPER NUMBER

1644

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/875,519

Applicant(s)

FARRIES ET AL.

Examiner

F. Pierre VanderVegt

Art Unit

1644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.


Claim(s) rejected: 58.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: See Continuation Sheet

Continuation of 2. NOTE: Proposed claim 59 reads on a nucleic acid encoding ANY modification of SEQ ID NO: 22. Specifically the claim reads on a nucleic acid encoding a modified C3 protein of SEQ ID NO: 22 wherein the modification is selected from the group consisting of a Markush group comprising a SINGLE MEMBER. That member is a modified human C3 protein with one or more of a group of recited mutations. However, that modified human C3 protein is not limited to that group of recited mutations but, as long as it contains at least one of those mutations, any additional mutation, recited or not, is encompassed by the claim. A modified C3 protein further consisting of a modified human C3 protein which is itself deemed a "mutation" constitutes NEW MATTER and will not be entered.

Continuation of 10. Other: Furthermore, the amendment to the claims filed on February 11, 2004 does not comply with the requirements of 37 CFR 1.121(c) because there is no listing of the status of claims 1-57. Amendments to the claims filed on or after July 30, 2003 must comply with 37 CFR 1.121(c) which states in (c)(1) that, "All of the claims presented in a claim listing shall be presented in ascending numerical order. Consecutive claims having the same status of "canceled" or "not entered" may be aggregated into one statement (e.g., Claims 1-5 (canceled)). The claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment."

  
PATRICK J. NOLAN, PH.D.  
PRIMARY EXAMINER

3/5/04